

No. 2013-1529

UNITED STATES COURT OF APPEALS FOR THE FEDERAL CIRCUIT

CEATS, INC.,

Plaintiff-Appellant,

vs.

CONTINENTAL AIRLINES, INC., et al.,

Defendants-Appellees.

APPEAL FROM THE UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF TEXAS IN CASE NO. 6:10-cv-120-LED,

THE HONORABLE MICHAEL H. SCHNEIDER

**CONSENT MOTION FOR EXTENSION OF TIME
OF BRIEFING SCHEDULE FOR APPEAL**

MILLER, CANFIELD, PADDOCK

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Attorneys for Plaintiff-Appellant

September 13, 2013

Plaintiff-Appellant CEATS, Inc. (“Appellant”), pursuant to Fed. R. App. P. 26(b) and Fed. Cir. R. 26(b), by and through its undersigned counsel, respectfully request a 60-day extension to file its opening brief such that Appellant’s opening brief is due on November 22, 2013. Defendants-Appellees (“Appellees”) do not

oppose Appellant's requested extension, and in turn, request a 30-day extension, to January 21, 2014, to file the Appellees' brief. Appellant likewise does not oppose Appellees' requested extension. In further support of this motion, Appellant states as follows:

GROUND FOR THE MOTION

Pursuant to Fed. R. App. P. 31(a)(1), Appellant's opening brief is currently due on September 23, 2013.¹ (Ex. A, ¶2). Dean Dickie and Ryan Williams were just recently retained as lead counsel for this appeal on September 12, 2013, a date less than two weeks prior to the date on which Appellant's opening brief is due. (Ex. A, ¶3). As lead counsel, Mr. Dickie and Mr. Williams are primarily responsible for drafting Appellant's opening brief. (Ex. A, ¶4). An extension of the date on which Appellant's opening brief is due is necessary to allow Appellant's newly retained lead counsel to learn the file, conduct the necessary research, and draft the opening brief. (Ex. A, ¶5).

Lead counsel for Appellant is further unable to comply with the current due date for the opening brief due to other professional obligations and pending deadlines, which include: (i) cross-country travel for multiple out-of-state depositions and hearings; (ii) drafting an opposition to a motion for summary

¹ Pursuant to Fed. Cir. R. 26(b)(5), a declaration of counsel is attached hereto as **Exhibit A**.

judgment currently due on September 30, 2013 for a matter pending in the Eastern District of New York; (iii) drafting an appellee brief currently due on October 3, 2013 for a matter pending in the First Judicial District in the Appellate Court of Illinois; and (iv) drafting an opposition to a motion for summary judgment currently due on October 7, 2013 for a matter pending in the Circuit Court of Cook County, Illinois. (Ex. A, ¶¶6-7).

Appellant respectfully requests a 60-day extension, to November 22, 2013, to file its opening brief. Good cause exists for the requested extension based on lead counsel's recent enrollment in this appeal and lead counsel's other professional obligations detailed above. (Ex. A, ¶8). This is Appellant's first request for an extension of time to file the opening brief. (Ex. A, ¶9). Pursuant to Fed. Cir. R. 26(b)(1), this motion was filed at least seven calendar days prior to the due date for Appellant's opening brief.

STATEMENT OF CONSENT

Pursuant to Fed. Cir. R. 26(b)(2), Appellant's counsel informed Appellees' attorneys of Appellant's intent to seek a 60-day extension to file its opening brief. Pursuant to Fed. Cir. R. 26(b)(3), Appellees do oppose Appellant's request and will not file a response to this motion. Nor does Appellant oppose Appellees' request for a 30-day extension to file their response brief.

CONCLUSION

WHEREFORE Plaintiff-Appellant CEATS, Inc. respectfully requests an extension of the briefing schedule for this appeal such that Appellant's opening brief is due on November 22, 2013; and Appellees' response brief is due on January 21, 2014; and for any further relief this Court deems appropriate.

Dated: September 13, 2013

Dean A. Dickie
Ryan C. Williams
MILLER CANFIELD

George L. Hampton IV
Colin C. Holley
HAMPTONHOLLEY LLP

By: s/Dean A. Dickie

Attorneys for Plaintiff-Appellant
CEATS, Inc.

DECLARATION OF RYAN C. WILLIAMS

1. I am an associate at the law firm of Miller, Canfield, Paddock and Stone, P.L.C. (“Miller Canfield”), and am counsel for Plaintiff-Appellant CEATS, Inc. (referred to herein as “Appellant”). If called as a witness, I could and would competently testify to each of the facts set forth in this Declaration, as I know each to be true based upon my own personal knowledge or based upon my review of the files and records maintained by Miller Canfield in the regular course of its representation of Appellant.

2. Pursuant to Fed. R. App. P. 31(a)(1), Appellant’s opening brief is currently due on September 23, 2013.

3. Dean Dickie and I were just recently retained as lead counsel for this appeal on September 12, 2013, a date less than two weeks prior to the date on which Appellant’s opening brief is due.

4. As lead counsel, Mr. Dickie and I are primarily responsible for drafting Appellant’s opening brief.

5. An extension of the date on which Appellant’s opening brief is due is necessary to allow Mr. Dickie and me to learn the file, conduct the necessary research, and draft the opening brief.

6. An extension is further necessary based on the other professional obligations and deadlines Mr. Dickie and I also currently face.

7. These other professional obligations include: (i) cross-country travel for multiple out-of-state depositions and hearings; (ii) drafting an opposition to a motion for summary judgment currently due on September 30, 2013 for a matter pending in the Eastern District of New York; (iii) drafting an appellee brief currently due on October 3, 2013 for a matter pending in the First Judicial District in the Appellate Court of Illinois; and (iv) drafting an opposition to a motion for summary judgment currently due on October 7, 2013 for a matter pending in the Circuit Court of Cook County, Illinois.

8. The requested extension of time is not sought for purposes of delay, but instead is sought based on my and Mr. Dickie's new involvement in this appeal and the other professional obligations we currently have.

9. This is Appellant's first request for an extension of time to file the opening brief.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on this 13th day of September, 2013, at Chicago, Illinois.



RYAN C. WILLIAMS

FORM 9. Certificate of Interest

UNITED STATES COURT OF APPEALS FOR THE FEDERAL CIRCUITCEATS, INC. v. CONTINENTAL AIRLINES, INC., et al.No. 2013-1529**CERTIFICATE OF INTEREST**

Counsel for the (petitioner) (appellant) (respondent) (appellee) (amicus) (name of party)

CEATS INC certifies the following (use "None" if applicable; use extra sheets if necessary):

1. The full name of every party or amicus represented by me is:

CEATS, INC.

2. The name of the real party in interest (if the party named in the caption is not the real party in interest) represented by me is:

NONE

3. All parent corporations and any publicly held companies that own 10 percent or more of the stock of the party or amicus curiae represented by me are:

NONE4. ☒ There is no such corporation as listed in paragraph 3.

5. The names of all law firms and the partners or associates that appeared for the party or amicus now represented by me in the trial court or agency or are expected to appear in this court are:

SEE ATTACHMENT "A"Sept. 13, 2013

Date



Signature of counsel

Dean A. Dickie

Printed name of counsel

ATTACHMENT "A"

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CERTIFICATE OF SERVICE

I hereby certify that on this date, a copy of the foregoing **Consent Motion For Extension Of Time Of Briefing Schedule For Appeal** was electronically served, through the CM/ECF system, on all counsel of record representing parties in this case, who are registered ECF filers.

Dated: September 13, 2013

s/ Dean A. Dickie

Dean A. Dickie

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